

CHAPTER 225

HUMAN SERVICES - BEHAVIORAL HEALTH

HOUSE BILL 19-1160

BY REPRESENTATIVE(S) Landgraf and Singer, Pelton, Bockenfeld, Larson, Wilson, McKean, Catlin, Gonzales-Gutierrez, Mullica, Arndt, Benavidez, Bird, Buckner, Buentello, Carver, Cutter, Duran, Esgar, Exum, Froelich, Gray, Herod, Jackson, Kennedy, Kipp, Kraft-Tharp, Lontine, McCluskie, Melton, Michaelson Jenet, Roberts, Sandridge, Sirota, Snyder, Soper, Tipper, Titone, Valdez A., Valdez D., Will, Baisley, Caraveo, Galindo, Garnett, Hansen, Hooton, Jaquez Lewis, McLachlan, Sullivan, Becker;

also SENATOR(S) Lee, Bridges, Cooke, Crowder, Donovan, Fields, Foote, Ginal, Gonzales, Hisey, Lundeen, Moreno, Pettersen, Priola, Rankin, Smallwood, Sonnenberg, Story, Tate, Todd, Williams A., Woodward, Garcia.

AN ACT

CONCERNING A MENTAL HEALTH FACILITY PILOT PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares:

(a) There are individuals with physical health or significant mental health needs who are often cared for in expensive acute care hospitals or acute care psychiatric hospitals. The taxpayers of Colorado often bear the costs of these individuals remaining in these expensive settings.

(b) Regulations limit the percentage of individuals with a mental health diagnosis or intellectual and developmental disability who may reside in a nursing home, further limiting the places where these individuals may reside; and

(c) These individuals would benefit from being in a facility that, in addition to serving their physical or mental health needs, may assist the individuals in transitioning to living on their own, but the current federal and state regulations and rules do not allow for this treatment model.

(2) Therefore, it is the intent of the general assembly that a pilot program be established to create a new licensed facility model to provide a variety of services

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

to individuals with dual diagnosis in a less costly setting that also prepares the individual to live on his or her own if possible.

SECTION 2. In Colorado Revised Statutes, **add 25-3-123** as follows:

25-3-123. Mental health facility pilot program - establishment - rules - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "MENTAL HEALTH FACILITY" MEANS A FACILITY APPROVED TO PARTICIPATE IN THE PILOT PROGRAM PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(b) "PILOT PROGRAM" MEANS THE MENTAL HEALTH FACILITY PILOT PROGRAM ESTABLISHED PURSUANT TO THIS SECTION.

(2) THERE IS ESTABLISHED IN THE DEPARTMENT THE MENTAL HEALTH FACILITY PILOT PROGRAM TO AUTHORIZE NOT MORE THAN TWO ENTITIES TO PARTICIPATE IN A THREE-YEAR PILOT PROGRAM TO ALLOW INDIVIDUALS WITH EITHER A PHYSICAL HEALTH DIAGNOSIS OR SIGNIFICANT MENTAL HEALTH DIAGNOSIS TO RESIDE IN A FACILITY THAT TREATS BOTH THE PHYSICAL AND MENTAL HEALTH ISSUES AND PROVIDES ADDITIONAL SERVICES TO HELP THE INDIVIDUAL TRANSITION TO INDEPENDENT LIVING.

(3) ON OR BEFORE OCTOBER 1, 2019, THE DEPARTMENT SHALL DEVELOP AN APPLICATION FOR INTERESTED ENTITIES TO APPLY TO BE AUTHORIZED AS A MENTAL HEALTH FACILITY. THE APPLICATION MUST REQUIRE THE APPLICANT TO SHOW, AT A MINIMUM, THAT IT:

(a) IS SERVING INDIVIDUALS WITH PHYSICAL OR MENTAL OR BOTH PHYSICAL AND MENTAL HEALTH DIAGNOSES;

(b) OFFERS STAFF SECURE ENVIRONMENTS RATHER THAN PHYSICALLY SECURE SPACES;

(c) HAS THE CAPABILITY TO PROVIDE INTEGRATED SERVICES WITH COMMUNITY MEDICAL AND BEHAVIORAL HEALTH PROVIDERS;

(d) HAS SUFFICIENT STAFFING LEVELS OF LICENSED NURSES, NURSING ASSISTANTS, AND OCCUPATIONAL AND RECREATIONAL PROFESSIONALS;

(e) HAS A PARTNERSHIP WITH EITHER AN ACUTE CARE HOSPITAL OR PSYCHIATRIC HOSPITAL AND WITH A SKILLED NURSING FACILITY, SO IT HAS THE ABILITY TO TRANSFER AN INDIVIDUAL IN NEED OF A HIGHER LEVEL OF CARE;

(f) DEMONSTRATES A COLLABORATIVE RELATIONSHIP WITH THE HOSPITAL, INCLUDING CONSULTATION AND TREATMENT PLAN SUPPORT, ONE-ON-ONE STAFFING SUPPORT, AND ONGOING TRAINING FOR STAFF AT THE MENTAL HEALTH FACILITY;

(g) IS IN A COMMUNITY THAT HAS RESOURCES TO SUPPORT COMMUNITY ENGAGEMENT TO MOVE AN INDIVIDUAL TO LESS RESTRICTIVE ENVIRONMENTS AS AN INDIVIDUAL PROGRESSES;

(h) DEMONSTRATES COST SAVINGS OR COST NEUTRALITY FOR THE STATE MEDICAL ASSISTANCE PROGRAM;

(i) IS WILLING AND ABLE TO CONTRIBUTE AT LEAST ONE-THIRD OF THE INCREASED COSTS THAT THE APPLICANT WILL INCUR DUE TO THE PILOT PROGRAM AND HAS IDENTIFIED SOURCES FOR THE OTHER TWO-THIRDS; AND

(j) IS WILLING TO PREPARE REPORTS ON THE PILOT PROGRAM.

(4) ON OR BEFORE FEBRUARY 1, 2020, THE DEPARTMENT SHALL SELECT UP TO TWO APPLICANTS TO BECOME MENTAL HEALTH FACILITIES UNDER THE PILOT PROGRAM; EXCEPT THAT, IF MORE THAN ONE APPLICANT IS SELECTED:

(a) ONE SELECTED APPLICANT MUST BE IN A COMMUNITY WITH A POPULATION OF OVER ONE HUNDRED THOUSAND AND ONE SELECTED APPLICANT IN A COMMUNITY WITH A POPULATION OF UNDER ONE HUNDRED THOUSAND UNLESS THERE IS NO QUALIFIED APPLICANT FROM SUCH A COMMUNITY;

(b) BOTH SELECTED APPLICANTS MUST NOT BE LOCATED IN THE SAME CITY UNLESS THE ONLY QUALIFIED APPLICANTS ARE FROM A SINGLE CITY; AND

(c) BOTH SELECTED APPLICANTS MUST NOT BE ASSISTED LIVING FACILITIES.

(5) THE DEPARTMENT IS AUTHORIZED TO ADOPT RULES TO IMPLEMENT THE PILOT PROGRAM.

(6) THE COLORADO LONG-TERM CARE OMBUDSMAN OFFICE, ESTABLISHED PURSUANT TO SECTION 26-11.5-104, HAS ACCESS TO THE PREMISES AND RESIDENTS OF A MENTAL HEALTH FACILITY DURING REASONABLE HOURS FOR THE PURPOSES SET OUT IN THE FEDERAL "OLDER AMERICANS ACT OF 1965".

SECTION 3. In Colorado Revised Statutes, 26-11.5-103, **amend** (3)(c); and **add** (3)(d) as follows:

26-11.5-103. Definitions. As used in this article 11.5, unless the context otherwise requires:

(3) "Long-term care facility" or "facility" means:

(c) Any swing bed in an extended care facility; AND

(d) A MENTAL HEALTH FACILITY PARTICIPATING IN THE PILOT PROGRAM ESTABLISHED PURSUANT TO SECTION 25-3-123.

SECTION 4. Appropriation. For the 2019-20 state fiscal year, \$30,730 is appropriated to the department of public health and environment for use by the health facilities and emergency medical services division. This appropriation is from the general fund and is based on an assumption that the division will require an additional 0.5 FTE. To implement this act, the division may use this appropriation for administration and operations.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 20, 2019